

Application No. 09/996,161

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**REMARKS**

In the Official Action mailed 28 December 2005, the Examiner reviewed claims 1-34 (the cover sheet indicates claims 1-35, but there are only 34 claims). The Examiner has rejected claims 1, 2, 4, 8, 10-12, 14, 15, 18, 20-22, 25, 27-29, 32 and 34 under 35 U.S.C. §103(a); has rejected claims 3 and 13 under 35 U.S.C. §103(a); has rejected claims 6, 16, 23 and 30 under 35 U.S.C. §103(a); has rejected claims 7, 17, 24 and 31 under 35 U.S.C. §103(a); and has rejected claims 9, 19, 26 and 33 under 35 U.S.C. §103(a).

No claims are amended. Claims 1-34 remain pending.

The rejections are respectfully traversed below, and reconsideration is requested.

Rejection of Claims 1, 2, 4, 8, 10-12, 14, 15, 18, 20-22, 25, 27-29, 32 and 34 under 35 U.S.C. §103(a)

The Examiner has rejected claims 1, 2, 4, 8, 10-12, 14, 15, 18, 20-22, 25, 27-29, 32 and 34 under 35 U.S.C. §103(a) as being unpatentable over Horn et al., U.S. Patent No. 6,379,314, in view of Goldstein, U.S. Patent No. 6,868,163. Applicant respectfully requests reconsideration, because the combination does not lead to the claimed invention, because the references relied upon by the Examiner are from unrelated arts, and because the combination relied upon by the Examiner would be inoperable.

As to independent claims 1, 11, 21 and 27, the Examiner acknowledges that Horn et al. does not teach the use of a first and second substimulus for generation of an audible stimulus, where the second substimulus is adapted to reduce one or both of harmonic distortion and quantization error. The Examiner relies upon Goldstein to suggest this limitation, citing column 3, lines 9-15 and column 9, lines 26-38 of Goldstein.

Applicant submits that the Examiner is misreading the claim or misreading the Goldstein reference. In particular, the claim requires that the second substimulus is adapted to reduce one or both of harmonic distortion and quantization error. Goldstein does not teach the use of substimulus in any form, and a priori does not teach the use of substimulus as claimed. The cited passages of Goldstein relate to the use of automatic gain control in a hearing aid amplifier where the AGC comprises "fast-acting, non-linear elements" combined with "relatively slow-acting gain control ...". The technology applied by Goldstein for these functions comprise FIR filters and a variable gain MBPNL transfer function as shown in Fig. 12 of Goldstein.

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Therefore, Goldstein does not teach combining substimulus signals to produce an audible stimulus in any form apparent to Applicant. Goldstein does describe a hearing test procedure in passages not cited by the Examiner. See, for example, column 15, line 52 to column 16, line 20 of Goldstein. However, generation of the stimulus used in the hearing test of Goldstein is not discussed. See, column 15, lines 56-58; and column 16, lines 13-15 of Goldstein. Therefore, the combination of references does not yield the claimed invention.

Furthermore, the hearing test art of Horn et al. and the hearing aid amplifier art of Goldstein are not analogous. There is no suggestion whatsoever, that one of skill in the art of on-line hearing tests, would look to the art of hearing aid amplifiers for the purpose of improving the performance of the on-line test.

Third, the combination relied upon by the Examiner would not be operable. The combination of a hearing aid amplifier as taught by the cited passages of Goldstein with the on line hearing test of Horn et al. would not be possible. The computers used for on line hearing tests in Horn et al. could not be replaced by the Goldstein hearing aids, and still be useful.

Claims 2, 4, 8 and 10 depend from claim 1, and are allowable for at least the same reasons, and because of the unique combinations recited. For example, as to claim 4, the Examiner cites column 7, lines 58-63 of Horn et al. as teaching the use of a higher number of bits per sample for the stimulus that would be used for the first substimulus alone. However, this cited passage of Horn et al. does not relate to the number of bits per sample of a stimulus. Rather, it relates to the frequencies of the sound signals being reproduced. Thus, the Examiner is mistaken in reliance on the cited portion of Horn et al. and claim 4 recites a combination not taught in the prior art.

Claims 12, 14, 15, 18 and 20 depend from claim 11, and are allowable for at least the same reasons, and because of the unique combinations recited.

Claims 22, 25 and 34 depend from claim 21, and are allowable for at least the same reasons, and because of the unique combinations recited.

Claims 28, 29 and 32 depend from claim 27, and are allowable for at least the same reasons, and because of the unique combinations recited.

Accordingly, reconsideration of the rejection of claims 1, 2, 4, 8, 10-12, 14, 15, 18, 20-22, 25, 27-29 and 32 as amended is respectfully requested.

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Rejection of Claims 3 and 13 under 35 U.S.C. §103(a)

The Examiner has rejected claims 3 and 13 under 35 U.S.C. §103(a) as being unpatentable over both Horn and Goldstein, as applied to claims 1 and 11 above, and further in view of "Official Notice." Claims 3 and 13 depend from claims 1 and 11, respectively, and are allowable on that basis, and because of the unique combinations recited.

Accordingly, reconsideration of the rejection of claims 3 and 13 as amended is respectfully requested.

Rejection of Claims 6, 16, 23 and 30 under 35 U.S.C. §103(a)

The Examiner has rejected claims 6, 16, 23 and 30 under 35 U.S.C. §103(a) as being unpatentable over both Horn and Goldstein, as applied to claims 1, 11, 21 and 27 above, and further in view of Davis et al. U.S. Patent 6,201,875. Claims 6, 16, 23 and 30 depend from claims 1, 11, 21 and 27 respectively, and are allowable on that basis, and because of the unique combinations recited.

Accordingly, reconsideration of the rejection of claims 6, 16, 23 and 30 as amended is respectfully requested.

Rejection of Claims 7, 17, 24 and 31 under 35 U.S.C. §103(a)

The Examiner has rejected claims 7, 17, 24 and 31 under 35 U.S.C. §103(a) as being unpatentable over both Horn and Goldstein, as applied to claims 1, 11, 21 and 27, above, and further in view of Priddy et al. U.S. Patent 5,774,216. Claims 7, 17, 24 and 31 depend from claims 1, 11, 21 and 27 respectively, and are allowable on that basis, and because of the unique combinations recited. We note that Priddy et al. arises from an unrelated art - that of ring laser gyroscopes, and is not a proper reference in the present application.

Accordingly, reconsideration of the rejection of claims 7, 17, 24 and 31 as amended is respectfully requested.

Rejection of Claims 9, 19, 26 and 33 under 35 U.S.C. §103(a)

The Examiner has rejected claims 9, 19, 26 and 33 under 35 U.S.C. §103(a) as being unpatentable over both Horn and Goldstein, as applied to claims 1, 11, 21 and 27 above, and further in view of Gleeson III et al. U.S. Patent No. 4,902,274. Claims 9, 19, 26 and 33 depend

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from claims 1, 11, 21 and 27 respectively, and are allowable on that basis, and because of the unique combinations recited.

Accordingly, reconsideration of the rejection of claims 9, 19, 26 and 33 as amended is respectfully requested.

Note on Related Case

The Examiner's attention is drawn to the related application number 10/975,047. In the related application, a provisional double patenting rejection has been made, in view of the present application.

**CONCLUSION**

It is respectfully submitted that this application is now in condition for allowance, and such action is requested.

The Commissioner is hereby authorized to charge any fee determined to be due in connection with this communication, or credit any overpayment, to our Deposit Account No. 50-0869 (RXSD 1022-1).

Respectfully submitted,

Dated:

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